

## Agricultural Marketing Service, USDA

## § 1150.152

nutrition education programs contemplated therein;

(h) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time to the Secretary as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(i) With the approval of the Secretary, to enter into contracts or agreements with national, regional or State dairy promotion and research organizations or other organizations or entities for the development and conduct of activities authorized under §§ 1150.139 and 1150.161, and for the payment of the cost thereof with funds collected through assessments pursuant to § 1150.152. Any such contract or agreement shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budgets or budget which shall show the estimated cost to be incurred for such plan or project;

(2) Any such plan or project shall become effective upon approval of the Secretary; and

(3) The contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary or employees of the Board may audit periodically the records of the contracting party;

(j) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(k) To have an audit of its financial statements conducted by a certified public accountant in accordance with generally accepted auditing standards, at least once each fiscal period and at such other times as the Secretary may request, and to submit a copy of each such audit report to the Secretary;

(l) To give the Secretary the same notice of meetings of the Board, committees of the Board and advisory committees as is given to such Board or committee members in order that the

Secretary, or a representative of the Secretary, may attend such meetings;

(m) To submit to the Secretary such information pursuant to this subpart as may be requested; and

(n) To encourage the coordination of programs of promotion, research and nutrition education designed to strengthen the dairy industry's position in the marketplace and to maintain and expand:

(1) domestic markets and domestic uses for fluid milk and dairy products produced in the United States or imported into the United States; and

(2) foreign markets and foreign uses for fluid milk and dairy products produced in the United States.

[49 FR 11816, Mar. 28, 1984, as amended at 76 FR 14789, Mar. 18, 2011]

### EXPENSES AND ASSESSMENTS

#### § 1150.151 Expenses.

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve) as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. However, after the first full year of operation of the order, administrative expenses incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal year. Such expenses shall be paid from assessments collected pursuant to § 1150.152.

(b) The Board shall reimburse the Secretary, from assessments collected pursuant to § 1150.152, for administrative costs incurred by the Department after May 1, 1984.

(c) The Board is authorized to expend up to the amount of the assessments collected from United States producers to promote dairy products produced in the United States in foreign markets.

[49 FR 11816, Mar. 28, 1984, as amended at 76 FR 14789, Mar. 18, 2011]

#### § 1150.152 Assessments.

(a) *Domestic Assessments.* (1) Each person making payment to a producer for milk produced in the United States and marketed for commercial use shall collect an assessment on all such milk

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handled for the account of the producer at the rate of 15 cents per hundredweight of milk for commercial use, or the equivalent thereof, and shall remit the assessment to the Board.

(2) Any producer marketing milk of that producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Board an assessment on such milk at the rate of 15 cents per hundredweight of milk for commercial use or the equivalent thereof.

(3) In determining the assessment due from each producer pursuant to § 1150.152(a)(1) and (a)(2), a producer who is participating in a qualified program(s) under § 1150.153 shall receive a credit for contributions to such program(s), but not to exceed 10 cents per hundredweight of milk marketed.

(4) In order for a producer described in § 1150.152(a)(1) to receive the credit authorized in § 1150.152(a)(3), either the producer or a cooperative association on behalf of the producer must establish to the person responsible for remitting the assessment to the Board that the producer is contributing to a qualified program under § 1150.153. Producers who contribute to a qualified program directly (other than through a payroll deduction) must establish with the person responsible for remitting the assessment to the Board, with validation by the qualified program, that they are making such contributions.

(5) In order for a producer described in § 1150.152(a)(2) to receive the credit authorized in § 1150.152(a)(3), the producer and the applicable qualified program must establish to the Board that the producer is contributing to the qualified program.

(6) The collection of assessments pursuant to § 1150.152(a)(1) and (a)(2) shall begin with respect to milk marketed on and after the effective date of this section and shall continue until terminated by the Secretary.

(7) Each person responsible for the remittance of the assessment pursuant to § 1150.152(a)(1) and (a)(2) shall remit the assessment to the Board not later than the last day of the month following the month in which the milk was marketed.

(8) Money remitted to the Board shall be in the form of a negotiable instrument made payable to "National Dairy Promotion and Research Board." Remittances and reports specified in § 1150.171(a) shall be mailed to the location designated by the Secretary or the Board.

(b) *Importer Assessments.* (1) Each importer of dairy products identified in the following table, except for as provided for in § 1150.157, is responsible for paying an assessment of 7.5 cents per hundredweight of U.S. milk, or equivalent thereof. The importer shall use the assessment rate of \$0.01327 per kilogram (kg) of milk solids to calculate and pay the assessment.

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### HTS Nos. for dairy import assessment

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0401.10.0000
0401.20.2000
0401.20.4000
0401.30.0500
0401.30.2500
0401.30.5000
0401.30.7500
0402.10.1000
0402.10.5000
0402.21.0500
0402.21.2500
0402.21.3000
0402.21.5000
0402.21.7500
0402.21.9000
0402.29.1000
0402.29.5000
0402.91.1000
0402.91.3000
0402.91.7000
0402.91.9000
0402.99.1000
0402.99.3000
0402.99.4500
0402.99.5500
0402.99.7000
0402.99.9000
0403.10.1000
0403.10.5000
0403.10.9000
0403.90.0400
0403.90.1600
0403.90.2000
0403.90.4110

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HTS Nos. for dairy import assessment	HTS Nos. for dairy import assessment
0403.90.4190	0406.10.8800
0403.90.4500	0406.20.1500
0403.90.5100	0406.20.2400
0403.90.5500	0406.20.2800
0403.90.6100	0406.20.3110
0403.90.6500	0406.20.3190
0403.90.7400	0406.20.3300
0403.90.7800	0406.20.3600
0403.90.8500	0406.20.3900
0403.90.9000	0406.20.4400
0403.90.9500	0406.20.4800
0404.10.0500	0406.20.5100
0404.10.1100	0406.20.5300
0404.10.1500	0406.20.6100
0404.10.2000	0406.20.6300
0404.10.5010	0406.20.6500
0404.10.5090	0406.20.6700
0404.10.9000	0406.20.6900
0404.90.1000	0406.20.7100
0404.90.3000	0406.20.7300
0404.90.5000	0406.20.7500
0404.90.7000	0406.20.7700
0405.10.1000	0406.20.7900
0405.10.2000	0406.20.8100
0405.20.2000	0406.20.8300
0405.20.3000	0406.20.8500
0405.20.4000	0406.20.8700
0405.20.6000	0406.20.8900
0405.20.7000	0406.20.9100
0405.20.8000	0406.30.0500
0405.90.1020	0406.30.1400
0405.90.1040	0406.30.1800
0405.90.2020	0406.30.2400
0405.90.2040	0406.30.2800
0406.10.0400	0406.30.3400
0406.10.0800	0406.30.3800
0406.10.1400	0406.30.4400
0406.10.1800	0406.30.4800
0406.10.2400	0406.30.5100
0406.10.2800	0406.30.5300
0406.10.3400	0406.30.6100
0406.10.3800	0406.30.6300
0406.10.4400	0406.30.6500
0406.10.4800	0406.30.6700
0406.10.5400	0406.30.6900
0406.10.5800	0406.30.7100
0406.10.6400	0406.30.7300
0406.10.6800	0406.30.7500
0406.10.7400	0406.30.7700
0406.10.7800	0406.30.7900
0406.10.8400	0406.30.8100

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HTS Nos. for dairy import assessment	HTS Nos. for dairy import assessment
0406.30.8300	1806.20.2400
0406.30.8500	1806.20.2600
0406.30.8700	1806.20.2800
0406.30.8900	1806.20.3400
0406.30.9100	1806.20.3600
0406.40.4400	1806.20.3800
0406.40.4800	1806.20.8100
0406.40.5400	1806.20.8200
0406.40.5800	1806.20.8300
0406.40.7000	1806.20.8500
0406.90.0810	1806.20.8700
0406.90.0890	1806.20.8900
0406.90.1200	1806.32.0400
0406.90.1600	1806.32.0600
0406.90.1800	1806.32.0800
0406.90.3100	1806.32.1400
0406.90.3200	1806.32.1600
0406.90.3300	1806.32.1800
0406.90.3600	1806.32.6000
0406.90.3700	1806.32.7000
0406.90.4100	1806.32.8000
0406.90.4200	1806.90.0500
0406.90.4600	1806.90.0800
0406.90.4800	1806.90.1000
0406.90.4900	1806.90.1500
0406.90.5200	1806.90.1800
0406.90.5400	1806.90.2000
0406.90.6600	1806.90.2500
0406.90.6800	1806.90.2800
0406.90.7200	1806.90.3000
0406.90.7400	1901.10.1500
0406.90.7600	1901.10.3000
0406.90.7800	1901.10.3500
0406.90.8200	1901.10.4000
0406.90.8400	1901.10.4500
0406.90.8600	1901.20.0500
0406.90.8800	1901.20.1500
0406.90.9000	1901.20.2000
0406.90.9200	1901.20.2500
0406.90.9300	1901.20.3000
0406.90.9400	1901.20.3500
0406.90.9500	1901.20.4000
0406.90.9700	1901.20.4500
0406.90.9900	1901.20.5000
1517.90.5000	1901.90.2800
1517.90.6000	1901.90.3400
1702.11.0000	1901.90.3600
1702.19.0000	1901.90.4200
1704.90.5400	1901.90.4300
1704.90.5800	1901.90.7000
1806.20.2090	2105.00.1000

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**HTS Nos. for dairy import assessment**

2105.00.2000  
2105.00.3000  
2105.00.4000  
2106.90.0600  
2106.90.0900  
2106.90.2400  
2106.90.2600  
2106.90.2800  
2106.90.3400  
2106.90.3600  
2106.90.3800  
2106.90.6400  
2106.90.6600  
2106.90.6800  
2106.90.7200  
2106.90.7400  
2106.90.7600  
2106.90.7800  
2106.90.8000  
2106.90.8200  
2202.90.1000  
2202.90.2400  
2202.90.2800  
3501.10.1000  
3501.10.5000  
3501.90.6000  
3502.20.0000

(2) The assessment on imported dairy products shall be paid by the importer to CBP at the time of entry summary for any products identified in §1150.152(b)(1).

(3) The assessments collected by CBP pursuant to §1150.152(b)(2) of this section shall be transferred to the Board in compliance with an agreement between CBP and the Secretary.

(4) The Secretary, at his or her discretion, shall verify the information reported by importers to CBP to determine if additional money is due the Board or an amount is due to an importer based on the quantity imported and the milk solids content per unit. In the case of money due to an importer from the Board, the Board will issue payment promptly to the importer. In the case of money due from the importer to the Board, the Secretary will send an invoice for payment directly to the importer. The remittance will be due to the Secretary upon receipt of the invoice. The Secretary will

promptly forward such payments received to the Board.

(5) If an importer elects to have funds remitted to a qualified program(s), the importer shall inform the Secretary of such designation by sending a letter to an address provided by the Secretary. Importer remittances for qualified program(s) shall not exceed 2.5 cents per hundredweight of milk, or equivalent thereof, of the 7.5 cents per hundredweight of milk, or equivalent thereof, paid by the importer pursuant to §1150.152(b)(1). The Secretary shall compute the funds due for each qualified program designated by importers and direct the Board to forward such funds to each qualified program.

(6) Assessments collected on imported dairy products shall not be used for foreign market promotion of United States dairy products.

(7) Any money received by the Board pursuant to §1150.152(b)(1) before the Secretary appoints the initial importer representatives to the Board shall not be spent by the Board but shall be held in escrow until such appointment.

(8) The collection of assessments pursuant to §1150.152(a) and (b) shall continue until terminated by the Secretary.

[76 FR 14789, Mar. 18, 2011]

**§ 1150.153 Qualified dairy product promotion, research or nutrition education programs.**

(a) Any producer organization that conducts a State or regional dairy product promotion, research or nutrition education program, authorized by Federal or State law; or has been an active and ongoing producer program before enactment of the Act; or is an importer organization that conducts a promotion, research, or nutrition education program may apply to the Secretary for certification of qualification so that:

(1) Producers may receive credit pursuant to §1150.152(a)(3) for contributions to such program; and

(2) The Board may remit payments designated by importers pursuant to §1150.152(b)(5).

(b) In order to be certified by the Secretary as a qualified program, the program must: